

Notice of Allowability

Application No.

09/919,678

Examiner

Hoa V. Le

Applicant(s)

WICHMANN ET AL.

Art Unit

1752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 15 July 2004.
2. ☒ The allowed claim(s) is/are 51, 52, 54-67, 69 and 70.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Hoa V. Le
Primary Examiner
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This is in response to Paper filed on 15 July 2004.

I. The record shows that the claims are rejected as:

“Claims 51-70 (with independent claim 51 as the main invention and dependent claims 52-70 as the secondary embodiments) are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuse et al (5,453,348) considered in view of Price (6,013,422) and the known embodiments with respect to Craver et al (5,652,087) and Yamashita et al (5,635,341).

Kuse et al disclose, teach, demonstrate and reduce to practice with a bleaching comprising a sufficient amount ferric salt of propylenediaminetetraacetic acid and ethylenediaminetetraacetic acid as an adjacent homologue as a silver halide photographic bleaching agent. The solution is disclosed, taught and suggested to be used to oxidized or bleach silver in a color reversal photographic material. There is no suggestion of a color negative process. Please see the whole disclosure of each of the applied reference, especially in Kuse et al at col.87:30-32, “Bleaching solution” on col.103:48-56 and Experiments 1(3, 4, 5, 10 and 11 in Table 1 on cols.105 and 106 and “Bleach replenisher” in Example 7, TABLE 5, Experiment Nos. 5(2, 3, 4, 5, 6, 7, 8 and 9) on cols. 108-109. For the newly added embodiments in the main invention independent claim 51, Price is cited to show the known color reversal processing steps...especially at col.10:5-18 and Table I. For an overflow process,...especially see Craver et al at col.1:39-54. For no ammonium ion,...especially see Yamashita et al at col.42:15-19. For new added embodiments in claims 59-66, Please see commercial products in Price at col.10:45-53 and col.11:66-67. Since the applied references are related to color reversal photographic

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materials and their processes as those claimed, it has a reason to expect to be the same or about the same result. Applicants are urged to show an evidence to the contrary since there is no evidence on the record that any the new added embodiments is novel. The showings in the instant applicants have been considered but have and are given a little to no value as broadly claimed. The language (at least includes 100% or is up to 200 g/m². It is noted that a claim would have no value, if its embodiment is known in the art. Applicants must be shown or demonstrated that a claimed embodiment that the claimed embodiment in an embodiment in a claimed is new, novel or unusual or unexpected result for its patentability. The record shows that there is none with respect to the secondary embodiments in the dependent claims 52-70. They will be carefully examined and looked into each of them. Therefore, applicants should and are required to show or demonstrate each of their patentability in each of the embodiments in the dependent claimed. An argument alone would have and be given a little to no value for their patentability. It is now notified. It also would like to see a test result at about 0.000 1 minutes in a bleaching process as broadly claimed by applicants. However, if the claims are limited to at least 6 minutes in bleaching process as shown or demonstrated in the instant application, the claims may be allowable as shown and demonstrated of all materials and (processes including conditions such as time and temperature) only. Since the above applied references are related to color reversal oxidizing and bleaching compositions and its use in color reversal oxidizing and bleaching processes, it would have been obvious to one having ordinary skill in the art at the time the invention was made to cite the known color reversal processing steps from Price or together with one or more of the known embodiments in the art as disclosed, taught and suggested in Craver et al and/or Yamashita et al in the absence of an unusual or unexpected result for its patentability.

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Applicants are urged to provide an unusual or unexpected result for (1) the combined embodiments in the main invention independent claim 51 and (2) together with each of secondary embodiments in the dependent claims 52-70 each of their patentabilities as claimed. Since the showings on the record have been considered but have and are given a limited, little to no value for the combined embodiments in the main invention independent claim 51 and (2) together with each of secondary embodiments in the dependent claims 52-70 each of their patentabilities as broadly claimed.

III. Applicant's arguments received 07 November 2003 have been fully considered but they are not persuasive.

Applicants recognize that the applied primary reference with respect to Kuse et al disclose, teach and suggest "color reversal materials" but fail to recognize that Kuse et al disclose, teach and suggest the use of a silver halide oxidizing and bleaching solution containing a sufficient amount ferric salt of propylenediaminetetraacetic acid and ethylenediaminetetraacetic acid as an adjacent homologue as a silver halide photographic bleaching agent (There is no suggestion of a color negative process in the above rejection by the examiner on the record). Please see the whole disclosure of the applied reference, especially in Kuse et al at col.87:30-32, "Bleaching solution" on col.103:48-56 and Experiments 1(3, 4, 5, 10 and 11 in Table 1 on cols.105 and 106 and "Bleach replenisher" in Example 7, TABLE 5, Experiment Nos. 5(2, 3, 4, 5, 6, 7, 8 and 9) on cols. 108-109.

Applicants urge that there is not teaching or suggestion of a color reversal processing steps as in the newly added embodiments to the main invention independent claim 51. For the

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newly added embodiments in the main invention independent claim 51, Price is cited to show the known color reversal processing steps...especially at col.10:5-18 and Table I.”

Applicant's arguments received 15 July 2004 have been fully considered but they are not persuasive.

Applicants recognize that the amount of the cited bleaching agent in the instant claims is within those in Kuse et al (page 6).

Applicants urge that Kuse et al Examples are related to color negative processing is correct. But teachings and suggestions in an applied reference are not limited to examples only as urged.

Any argument or suggestion by applicants without a support of a convincing evidence is a supposition has and is given a little to no value.

The record shows Price is applied to show a well known or conventional color reversal process. Applicants fail to be able to comprehend it and understand a different direction than those on the record.

The record shows Craver et al is applied to show a well known or conventional overflown process. Applicants fail to be able to comprehend it and understand a different direction than those on the record.

The record shows Yamashita et al is applied to show a well known or conventional no ammonium ions. Applicants fail to be able to comprehend it and understand a different direction than those on the record.

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Applicants urge that the rejection on the record is based on a improper hindsight reconstruction. It is submitted that the rejection is proper since it is permitted to use a combination of the known teachings and suggestions in prior art because no applied teaching or suggestion is gleaned on applicants' specification only in accordance with the authority stated in *In re McLaughlin*, 170 USPQ 209.

II. However the claims are narrowly allowable as urged by applicants on the record. The following is an examiner's statement of reasons for allowance: The primary reference with respect to Kuse et al disclose, teach and suggest the claimed solution for use to oxidize silver on all known wet processing color photographic material processes including a color reversal process as claimed but fail to demonstrate in their Examples with a color reversal process as claimed. Teachings and suggestions in prior art are secondary in all places other than those in Examples as urged by applicants on the record to demonstrations and practices in Examples being applied in the references. Therefore, the claims are allowable as narrowly argued on the record. Accordingly, the same is equally considered in the instant application.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

III. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoa V. Le whose telephone number is 571-272-1332.

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The examiner can normally be reached from 6:30 AM to 4:30 PM on Monday through Thursday and about the same time of most Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly can be reached on 571-272-1526.

Applicants may file a paper by (1) fax with a central facsimile receiving number 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hoa V. Le
Primary Examiner
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HVL
26 July 2004

HOA VAN LE
PRIMARY EXAMINER

